

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE**

THE FAMILY PLANNING ASSOCIATION OF  
MAINE D/B/A MAINE FAMILY PLANNING,  
on behalf of itself, its staff, and its patients, *et al.*;

Plaintiffs,

V.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES, *et al.*;

Defendants.

Case No. 1:19-cv-00100-LEW

## PLAINTIFFS' MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15 and ECF No. 96, Plaintiffs, The Family Planning Association of Maine d/b/a Maine Family Planning (“MFP”), on behalf of itself, its staff, and its patients; and J. Doe, DO, MPH, individually and on behalf of Dr. Doe’s patients, hereby file this motion for leave to file an Amended Complaint. Counsel for all parties have conferred regarding this motion, and Defendants’ counsel has stated that they take no position with respect to Plaintiffs filing an amended complaint. Plaintiffs’ proposed First Amended Complaint is attached hereto as Exhibit A.

On March 4, 2019, Plaintiffs filed this action to enjoin *Compliance with Statutory Program Integrity Requirements*, 84 Fed. Reg. 7714 (the “Rule”), a regulation regarding the Title X program. Plaintiffs moved for a preliminary injunction on March 25, 2019. ECF No. 17. The Court issued a Decision and Order on Motion for Preliminary Injunction on July 3, 2019, denying Plaintiffs’ Motion for Preliminary Injunction. ECF No. 77. Plaintiffs moved to amend

the preliminary injunction order or, in the alternative, for an injunction pending appeal. ECF No. 78. The Court denied the motion on August 9, 2019. ECF No. 84. Plaintiffs filed a Notice of Appeal, No. 19-1836, of the Court's Order denying the Motion for Preliminary Injunction on August 15, 2019. ECF No. 85. On October 22, 2019, Plaintiffs voluntarily dismissed that appeal.

In anticipation of the instant Motion, the Parties jointly moved to vacate the pending deadline for Defendants' response to the operative complaint, ECF No. 95, which the Court granted on November 1, 2019, ECF No. 96. The Court further set a November 21 Deadline for Plaintiffs to file an Amended Complaint. Minute Order (Nov. 1, 2019).

There is good cause for Plaintiffs to file an Amended Complaint. Circumstances have changed since this case was filed, impacting the claims at hand and Plaintiffs' desired relief. In particular, the challenged regulation is now in effect, and Plaintiff Maine Family Planning is no longer a participant in the Title X program. An Amended Complaint is thus necessary so that the Court can address the operative facts and claims at hand.

Accordingly, Plaintiffs' motion should be granted and Plaintiffs respectfully request that the Court enter their Proposed Amended Complaint, attached as Exhibit A, on the docket.

Dated: November 21, 2019

Respectfully submitted,

/s/ Richard L. O'Meara

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& Dr. J. Doe*

*\*Admitted Pro Hac Vice*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of November, 2019, I filed a copy of the above Motion with the Clerk of Court through the ECF system, which automatically sent a Notice of Electronic Filing to all counsel of record.

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